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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,109

04/01/2004

James Gerald Merten

15913-US

8580

30689

7590

09/12/2006

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

EXAMINER

ARTHUR JEANGLAUD, GERTRUDE

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,109

Applicant(s)

MERTEN ET AL.

Examiner

Gertrude Arthur-Jeanglaude

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 and 43-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39, 43-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/19/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The information disclosure statement filed European Search Report fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Applicant's representative is advised to submit all references cited in the European search report for consideration; all prior arts to be considered must be cited in a PTO 1449-form. Only the references properly cited in the 1449 will be considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-39, 43-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Padgett et al. (U.S. Patent No. 6,643,577).

Padgett et al. disclose an operator control and method for a work machine. According to Padgett et al, there is provided an implement controller enabling system (column 3) for a work vehicle (e.g., 11), the work vehicle (11) including a swivel seat (e.g. 22) having a first position and a second position, and an engine (figure 1). According to Padgett et al, the implement controller enabling system comprising an

implement controller (e.g., 24) capable of being enabled and disabled (column 3,9), a first seat switch having a first seat switch state and a first seat switch second state, the first switch entering the first seat switch first state when the swivel seat is substantially in the first position (abstract, column 3-4), a second seat switch having a second seat switch first state and a second seat switch second state, the second seat switch entering the second seat switch first state when the swivel seat is substantially in the second position (abstract, figure 1 and columns 3-4), and an ignition switch (e.g. 57) having a power-on state and a power-off state. See columns 5-6. Furthermore, Padgett et al discloses an implement controller toggle switch capable of being toggled to an implement controller switch first state and a implement controller switch second state, the implement controller being enabled when ideal enablement conditions exist, the ideal enablement conditions existing only when the ignition switch is in the power-on state, the first seat switch is in the first seat switch first state, the second seat switch is in the second seat switch second state and the implement controller toggle switch is toggled to the implement controller switch first state, the implement controller toggle switch being toggled to the implement controller switch first state when the ignition switch is in the ignition switch activation and the first seat switch is in the first seat switch activation state. See columns 7-10. According to Padgett et al, at least one of the first seat switch, second seat switch, ignition switch and implement controller toggle switch is an electrical switch. The implement controller, according to Padgett et al, that is enabled becomes disabled when one of the first seat switch, second seat switch, ignition switch and implement controller toggle switch undergoes a change of state (i.e.,

switches from one position or state to another, line from on to off) and the at least one of the first seat switch, second seat switch, ignition switch and implement controller toggle switches is closed when it is in a controller switch first state and open when it is in a second state, or the at least one of the first seat switch, second seat switch, ignition switch and implement controller toggle switch is open when it is in a first state and closed when it is in a second state. See columns 8-10. Also, Padgett et al disclose a system override switch (e.g., 29, 30) for enabling the implement controller under non-ideal enablement conditions, the system override switch having an override switch first state and an override switch second state, the non-ideal enablement conditions existing when the system override switch is put in the override switch first state while the ignition switch is in the power-on state and the ideal enablement conditions do not exist, the implement controller being enabled when the override switch is toggled to the override switch first state in an absence of the ideal enablement conditions. See columns 8-10. In addition, Padgett et al discloses a monitor or display (e.g. 32), the monitor having an audible signal generator, the audible signal generator emitting an audible signal when the implement controller is enabled in the absence of the ideal enablement conditions, and the monitor displaying a message indicating that an override condition exists when the implement controller is enabled in the absence of the ideal enablement conditions. See figure 4 and column 4-5. According still to Padgett et al, the audible signal generator emits an audible signal when the first seat switch is in the first seat switch first state and the second seat switch is in the second seat switch first state and the monitor displays a message indicating a non-ideal enablement when the first seat switch is in

the first seat switch first state and the second seat switch is in the second seat switch first state. See columns 4-6 and figures 4-5. The implement controller, according to Padgett et al, is a joystick (e.g. 26) and the override switch comprises the implement controller toggle switch. See figures 1-3, column 8-10.

Response to Arguments

Applicant's arguments filed 5/12/06 have been fully considered but they are not persuasive.

In response to Applicant's representative arguments, it appears that the previous examiner inadvertently omitted the numbering of claims 43-45 in the rejection but addressed the limitations of claims 43-45 whereas Padgett et al. discloses at columns 8-10, the implement controller toggle switch (See figures 1-3, column 8-10). At the end of the rejection, the limitation is addressed and was previously addressed. Furthermore, Applicant's representative argues that the Padgett et al. fail to disclose any seat switch. However, it is stated in the office action that the seat 22 has a switch 57 (See columns 3-4, abstract, figure 1). Also see col. 7, lines 53-67; (the seat 22 comprises a switch 57). Also, see col.5, lines 34-42 where the seat 22 has a switch 31. Therefore, examiner respectfully disagrees with the Applicant's representative's argument that Padgett nowhere discloses any switch seat. The rejection is maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is (571) 272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gaj

Gertrude A. Jeanglaude
GERTRUDE A. JEANGLAUE
PRIMARY EXAMINER